



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4128

by Rep. Brandon W. Phelps

SYNOPSIS AS INTRODUCED:

225 ILCS 725/8a

from Ch. 96 1/2, par. 5413

225 ILCS 725/8d new

Amends the Illinois Oil and Gas Act. Provides that no person shall falsify or otherwise misstate any information on or relative to any application, permit, required record, or other document required to be submitted to the Department of Natural Resources by the Act or any rules or procedures adopted under the Act. Requires that when an inspector or other authorized employee or agent of the Department determines that any permittee or any person engaged in conduct or activities required to be permitted under the Act has falsified or otherwise misstated any information on or relative to any application, permit, required record, or other document, a notice of violation shall be completed and delivered to the Director of Natural Resources or his designee. Sets a penalty of \$5,000 for falsification or misstatement of information.

LRB099 11114 AMC 31533 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Oil and Gas Act is amended by
5 changing Section 8a and by adding Section 8d as follows:

6 (225 ILCS 725/8a) (from Ch. 96 1/2, par. 5413)

7 Sec. 8a. When an inspector or other authorized employee or
8 agent of the Department determines that any permittee, or any
9 person engaged in conduct or activities required to be
10 permitted under this Act, is in violation of any requirement of
11 this Act or the rules adopted hereunder or any permit
12 condition, or has falsified or otherwise misstated any
13 information on or relative to any application, permit, required
14 record, or other document required to be submitted to the
15 Department by this Act or any rules or procedures adopted under
16 this Act ~~the permit application~~, a notice of violation shall be
17 completed and delivered to the Director or his designee.

18 The notice shall contain:

- 19 1. the nature of the violation;
- 20 2. the action needed to abate the violation, including
21 any appropriate remedial measures to prevent future
22 violation such as replacement, repair, testing and
23 reworking a well and any appurtenances and equipment;

1 3. the time within which the violation is to be abated;
2 and

3 4. any factors known to the person completing the
4 notice of violation in aggravation or mitigation and the
5 existence of any factors indicating that the permit should
6 be conditioned or modified.

7 Upon receipt of a notice of violation, the Director shall
8 conduct his investigation and may affirm, vacate or modify the
9 notice of violation. In determining whether to take actions in
10 addition to remedial action necessary to abate a violation, the
11 Director shall consider the person's or permittee's history of
12 previous violations including violations at other locations
13 and under other permits, the seriousness of the violation
14 including any irreparable harm to the environment or damage to
15 property, the degree of culpability of the person or permittee
16 and the existence of any additional conditions or factors in
17 aggravation or mitigation including information provided by
18 the person or permittee.

19 The Director shall serve the person or permittee with his
20 decision at the conclusion of the investigation. Modification
21 of the notice of violation may include:

22 1. any different or additional remedial action
23 required to abate the violation and the time within which
24 the violation must be abated;

25 2. the assessment of civil penalties not to exceed
26 \$5,000 for each and every falsification or misstatement of

1 information and \$1,000 a day for each and every act of
2 violation not including a falsification or misstatement of
3 information;

4 3. probationary or permanent modification or
5 conditions on the permit which may include special
6 monitoring or reporting requirements; and

7 4. revocation of the permit.

8 The Director's decision shall provide that the person or
9 permittee has the right to request a hearing.

10 The Director's decision affirming, vacating or modifying
11 the notice of violation shall be considered served when mailed
12 by first class mail to the person or permittee at his last
13 known address.

14 A person or permittee shall have 30 days from the date of
15 service of the Director's decision to request a hearing. If the
16 Director's decision includes the assessment of a civil penalty,
17 the person or permittee charged with the penalty shall pay the
18 penalty in full or, if the person or permittee wishes to
19 contest either the amount of the penalty or the fact of the
20 violation, submit the assessed amount, with the request for a
21 hearing, to be held in escrow. The filing of a request for a
22 hearing shall not operate as a stay of the Director's decision.
23 All civil penalties finally assessed and paid to the Department
24 shall be deposited in the Underground Resources Conservation
25 Enforcement Fund.

26 Any person who willfully or knowingly authorized, ordered,

1 or carried out any violation cited in the Director's decision
2 shall be subject to the same actions, including civil
3 penalties, which may be imposed on the person or permittee
4 under this Section.

5 Upon receipt of a request, the Department shall provide an
6 opportunity for a formal hearing upon not less than 5 days
7 notice. The hearing shall be conducted by the Director or
8 anyone designated by him for such purpose, and shall be located
9 and conducted in accordance with the rules of the Department.
10 Failure of the person or permittee to timely request a hearing
11 or, if a civil penalty has been assessed, to timely tender the
12 assessed civil penalty, shall constitute a waiver of all legal
13 rights to contest the Director's decision, including the amount
14 of any civil penalty. Within 30 days of the close of the
15 hearing record or expiration of the time to request a hearing,
16 the Department shall issue a final administrative order.

17 If, at the expiration of the period of time originally
18 fixed in the Director's decision or in any subsequent extension
19 of time granted by the Department, the Department finds that
20 the violation has not been abated, it may immediately order the
21 cessation of operations or the portions thereof relevant to the
22 violation. Such cessation order shall be served in the manner
23 and within the time prescribed in Section 19.1 of this Act.

24 Pending the holding of any hearing or entry of a final
25 administrative order under this Section, the person or
26 permittee to whom the cessation order was issued may file a

1 written request for temporary relief subject to the same terms
2 and conditions as are provided for in Section 19.1 of this Act.

3 If the Department finds that a person or permittee has
4 failed to comply with a final administrative order, the
5 Department may immediately order the cessation of operations or
6 the portions thereof relevant to the final administrative
7 order. Such cessation order shall be served in the manner and
8 within the time prescribed in Section 19.1 of this Act. The
9 Department shall commence a hearing within 5 days after
10 issuance of a cessation order and shall conclude such hearing
11 without appreciable delay. At the hearing the Department shall
12 have the burden of proving that the person or permittee has not
13 complied with the final administrative order. A cessation order
14 issued under this paragraph shall continue in effect until
15 modified, vacated, or terminated by the Department.

16 The Department shall refuse to issue a permit or permits,
17 and shall revoke any permit or permits previously issued if:

18 (1) the applicant has falsified or otherwise misstated
19 any information on or relative to the permit application;

20 (2) the applicant has failed to abate a violation of
21 the Act specified in a final administrative decision of the
22 Department;

23 (3) an officer, director, partner, or person with an
24 interest in the applicant exceeding 5% failed to abate a
25 violation of the Act specified in a final administrative
26 decision of the Department; or

1 (4) the applicant is an officer, director, partner, or
2 person with an interest exceeding 5% in another entity that
3 has failed to abate a violation of the Act specified in a
4 final administrative decision of the Department.

5 (Source: P.A. 89-243, eff. 8-4-95.)

6 (225 ILCS 725/8d new)

7 Sec. 8d. Falsification or misstatement of information. No
8 person shall falsify or otherwise misstate any information on
9 or relative to any application, permit, required record, or
10 other document required to be submitted to the Department by
11 this Act or any rules or procedures adopted under this Act.